

SUFFOLK COUNTY LEGISLATURE

SPECIAL MEETING

NINTH DAY

JUNE 19, 2006

**MEETING HELD AT THE WILLIAM H. ROGERS LEGISLATURE
BUILDING IN THE ROSE Y.**

CARACAPPA LEGISLATIVE AUDITORIUM

725 VETERANS MEMORIAL HIGHWAY, HAUPPAUGE, NEW YORK

MINUTES TAKEN BY

LUCIA BRAATEN, COURT STENOGRAPHER

[THE MEETING WAS CALLED TO ORDER AT 9:16 A.M.]

P.O. LINDSAY:

Madam Clerk, read the roll, please.

LEG. ROMAINE:

Present.

LEG. SCHNEIDERMAN:

(Not Present)

LEG. BROWNING:

(Not Present)

LEG. CARACAPPA:

(Not Present)

LEG. LOSQUADRO:

Present.

LEG. EDDINGTON:

Present.

LEG. MONTANO:

(Not Present)

LEG. ALDEN:

Here.

LEG. BARRAGA:

Present.

LEG. KENNEDY:

(Not Present)

LEG. NOWICK:

Here.

LEG. HORSLEY:

Here.

LEG. MYSTAL:

(Not Present)

LEG. STERN:

(Not Present)

LEG. D'AMARO:

Here.

LEG. COOPER:

Here.

LEG. VILORIA • FISHER:

Present.

P.O. LINDSAY:

Here. Here's Stern. Would everyone rise for the Pledge, please, by Legislator Cameron Alden.

(SALUTATION)

Madam Clerk, would you read the meeting notice, please?

MS. ORTIZ:

"Please be advised that a Special Meeting of the Suffolk County Legislature will be held on Monday, June 19th, 2006, at 9:30 a.m. in the forenoon in the Rose Y. Caracappa Legislative Auditorium, located at the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Hauppauge, New York, pursuant to Section 2•6(B) of the Suffolk County Administrative Code for the following purpose: One, one•hour public portion; and two, to consider and vote on Home Rule Message Number 5•2006 • Requesting the New York State Legislature to implement a Budget Reduction Plan via a uniform application fee for recording mortgage and mortgage•related documents in

the Office of the County Clerk, if discharged from committee." Signed, Steve Levy, County Executive of Suffolk County.

P.O. LINDSAY:

Thank you very much. Do we have any cards? Madam Clerk, do we have any cards that you know of.

MS. ORTIZ:

No, none.

P.O. LINDSAY:

We don't have any cards, okay. The public portion, the one•hour public portion now is officially opened. And being that we have no cards, we will wait a little while to see if anybody comes in that would like to speak. So ••

D.P.O. VILORIA•FISHER:

I'll go get a cup of coffee.

P.O. LINDSAY:

You can go get a cup of coffee.

[THE MEETING WAS RECESSED AT 9:35 A.M. AND RESUMED AT 9:50 A.M.]

P.O. LINDSAY:

Okay. Madam Clerk, will you •• we've been joined by a couple of other Legislators. Are you up to snuff with everybody that came in?

MS. ORTIZ:

Yes.

P.O. LINDSAY:

Okay. I still do not have any cards. Is there anyone in the audience that would like to speak on this issue that there's a one•hour public portion? Seeing none, what I'm going to do is I'm going to take a motion to waive the rules and to close the public portion.

LEG. COOPER:

So moved.

P.O. LINDSAY:

Motion by Legislator Cooper, seconded by Legislator Barraga. All in favor? Opposed? Abstentions? Okay. The public portion is officially closed. And I

would entertain a motion to discharge ***H.R. 5•2006 (Requesting the New York State Legislature to implement a Budget Reduction Plan via a uniform application fee for recording mortgage and mortgage•related documents in the Office of the County Clerk)*** for the purpose of debate and voting. Could I have ••

D.P.O. VILORIA•FISHER:

So moved.

P.O. LINDSAY:

Motion by Legislator Vilorina•Fisher.

LEG. COOPER:

Second.

P.O. LINDSAY:

Second by Legislator Cooper. All in favor? Opposed? Abstentions? We have before us Home Rule Message 5•2006. Any discussion? Would anybody like to speak? Legislator Romaine.

LEG. ROMAINE:

Yes. I'd like to make a few points about this Home Rule Message, and I'm going to start and end on a positive note. Unfortunately, in the middle will be

a little bit of criticism.

First, let me say that a uniform fee for the County Clerk's Office is something that is extremely desirable and is something that I supported for the 16 years that I served in that office. However, the revenue uniform fee that I supported was a revenue neutral fee, it was not a fee to raise taxes. And what you're doing is a back•door tax. What's worse, it's a permanent back•door tax, because this Home Rule Message has no sunset provisions. It is projected that this will raise 11 million dollars in 2006 and 22 million dollars in 2007. This is a permanent revenue extension put on the back of the homeowner.

Let me tell you what this does. We're looking to promote affordable housing. Every new homeowner will have to pay \$175 to record their new deed and another \$175 to record their mortgage. If they have a second mortgage, that's another \$175. If I'm looking to refinance my house because my kid's going to college, so I want to put a back •• a little above ground pool in my backyard and I want to refinance for 5 or \$10,000, that's another \$175 fee each and every time.

This tax that we're doing today is a regressive tax that falls most heavily on the poor. It adds to the cost of closing costs, and it affects every one of the 550,000 property owners in Suffolk County, because every one of them have at least a deed and most of them a mortgage. And most of them, when they satisfy that mortgage and they finally finish paying it off, they get hit with another \$175 fee.

I don't believe that this was the right way to go.

Now, I hear the administration say, "We need more revenue," "We need more help," "We need to balance the budget, "We don't need it this year, but we need it next year, and we'll probably need it in future years and we need to raise more revenue." I just would say this as an alternative. Why don't we consider an eighth of a percent on the mortgage tax on mortgages made over \$250,000? That way the new homeowner isn't hit. It is a progressive tax and it doesn't fall on the poor, and it doesn't fall on the middle class. And an eighth a percent is exactly \$1.25 tax per thousand. That would have been a much better alternative. And I want to offer an alternative here, because I don't want to be just a critic harping on this. But that is one alternative. There's a lot of other alternatives that we could have explored. This is a flat tax that falls most, and a regressive one, that falls most heavily on the new homeowner, that falls on every single property owner in this County. Just consider that and I appreciate your attention, and I'll end there. Thank you.

P.O. LINDSAY:

Legislator Cooper? No?

LEG. COOPER:

No. I was just going to say he promised to end on a positive note.

LEG. ROMAINE:

Oh.

P.O. LINDSAY:

Legislator Kennedy.

LEG. ROMAINE:

The positive note was the alternative.

LEG. COOPER:

Okay.

LEG. KENNEDY:

Thank you, Mr. Chair. I spoke at the General Meeting about my personal opposition to this, because I felt that it was an increase that far exceeded any area that was reasonable. As I had said, there is a cost associated with the actual processing of these transactions out in the Clerk's Office, and a reasonable increase might be something that could be looked at as offsetting the cost of transacting business in the Clerk's Office. This process is something that is a process that has gone on for hundreds of years, predates us, predates much of the organization in the State of New York for the purpose of filing, and recording, and making public to the world the debt aspects of real property.

The item that I would like to point out with this requested increase is that, in fact, if this is to pass, transactions will not be capped at \$175. This does nothing to go ahead and address the additional State•based fees associated with the recording of any type of real property transaction in the Clerk's Office. There's currently a \$30 State mandated and local County•authorized verification fee that is in place. There is a State mandated Commissioner of Education fee that is in place. By authorizing and promoting this, in fact, we

will be endorsing running the cost of a simple satisfaction of mortgage, assignment of mortgage, modification of mortgage documents, a release of lien of mortgage property, or any of the other myriad of real property transactions that go on upwards of a minimum of 210, \$220. So it is an illusion to perceive that we are taking this only to 175. The silence does not demonstrate what, in fact, the real consequences of this action are today. It is unwarranted to run for a County filing fee to 175, and it is illusory to not make it public what, in fact, the actual outcome and consequences of this action are. So I will oppose it.

P.O. LINDSAY:

And I want to comment. We depend tremendously on sales tax in this County and, to a lesser degree, to real estate taxes, and we've talked for years about diversifying our tax base, especially in down years.

Every one of us at the horseshoe, including the last two speakers, knows how to spend money around here. To get •• to say now, to come out against this modest increase in a fee that most time is paid once or twice in the lifetime of one of our homeowners, what are you going to do? Are you going to raise property taxes every year? Are you going to •• are you willing to vote for a property tax increase equal to this that will be on the tax base year after year after year? Come on. You know, it's great to spend money, but you also have to step up to the plate and be fiscally responsible for your actions as well.

I just wanted to ask, I see Mr. Sabatino, the full effect of this fee•based increase.

MR. SABATINO:

Thank you, Mr. Chairman. I'd just like to have the opportunity to make a couple of quick correcting comments on statements that were made.

Number one, this uniform filing fee is limited to mortgage related documents. There are 16 or 17 documents that are covered. It does not, does not, N•O•T, does not apply to the recording of a deed.

The comment that was made that a proposal was out there for years in the State, that uniform filing fee, is accurate to the extent that it ends with that sentence. But it's not accurate, because that would have applied to all documents, all recording documents. And the notion that that was not going to generate additional revenues is absurd, because the uniform filing fee that was being proposed at 125 to 150 dollars for all documents was going to generate additional revenue.

This proposal is narrowly targeted, carefully crafted to be limited to mortgage related documents. By way of example, three of the seventeen documents I mentioned before won't even reach the consumer in 90% of the situations. By way of example, an assignment of a mortgage. Normal situation: You go to borrow money from Bank A, Bank A a week later sells the mortgage to Fannie Mae, or Freddie Mac, or Sallie Mae, that's an assignment of mortgage. Currently, the fee for that is \$25. That's being paid by the bank. The bank is paying the \$25 to assign and record that mortgage. That will now be \$175. That's going to generate real revenue. That's not being paid in 90% of the situations by your average consumer.

There are two other situations which are spreader and splitter agreements,

which are complicated mortgage documents. Again, the lender, the bank is making those payments. Now I know somebody's going to say, "Well, they're passing those charges on." They can't unless they're violating HUD rules and regulations, because you've got to fill out a disclosure form at the closing identifying all the costs and charges. Those are not costs and charges that go to the consumer.

So I just want to correct the record with regard to what the overall impact of these fees is going to be. And then, yes, it's going to generate revenue. That's not a surprise. We voted fifteen to three a month ago as part of an overall deficit reduction package to avoid tax increases of any nature in the future. It was fully disclosed at that time that the 22 million dollars was part of that. But the 22 million dollars, as I just indicated, is going to be spread across situations and transactions where the consumer will not be paying that payment directly.

And in closing, this is not, N•O•T, this is not a mortgage tax. A mortgage tax on top of the existing mortgage tax, which already generates about twenty •two to twenty•five hundred dollars for the average consumer going through a real estate transaction would jump anywheres, depending on what numbers you use, \$800 to \$1,000. You throw another \$1,000 of a mortgage tax, T•A •X, on top of the existing tax, I think you're going to cause major dislocation and problems for the real estate industry, for mortgage brokers, for bankers. It's going to have an adverse economic impact as opposed to this modest fee increase, which again is spread over a multitude of transactions, but limited, limited to the mortgage related transaction. Thank you.

LEG. LOSQUADRO:

Just one question for Mr. Sabatino.

P.O. LINDSAY:

Legislator Alden was next. You want to comment?

LEG. ALDEN:

I'll yield.

LEG. LOSQUADRO:

I was just going to ask him to spell something bigger than monosyllabic words.

LEG. ALDEN:

I think it's a positive thing that we're having a debate of this nature. And the bigger picture here is how do we pay for government going forward? And if you start looking at your options, there really aren't a lot. And most of the options that we have are very painful, as was indicated before. Raising property taxes, that's not something I want to look to do in the future, or increasing a tax on people's home energy needs. Those are things that I think that we should be reducing. And in contrast to some of the other things that have come over here, which seem to me to be one•shots, and I'm going to include some major things, like the refinancing of our debt, that •• the original proposal was a one•shot, because it loaded up all the savings in the first year. We changed that and we took savings in a couple of years. We have dissavings in a few years also, which is not a good idea, but it was more than just a one•shot. This actually ends up being not a one•shot, but an, in fact, revenue stream that will go into the future. And it can replace a

revenue stream. If we don't have a crisis next year, it can actually replace a revenue stream that we're getting from home energy and maybe even gasoline tax that we impose on our people in Suffolk County.

So I think that we have to have more discussions and a little more, as far as imagination, use a little more imagination and come over, not with one •shots, but things similar to this that are going to provide a little bit of revenue into the future that will take a little bit of the burden off of most of the homeowners that we have in Suffolk County. And some things we're going to have to look at in the way we attract new business and things of that nature to Suffolk County, because right now I think we're anti•business rather than pro business. And there's a few changes we can make, like getting some health permits and approvals, get that streamlined a little bit better and actually attract people, and not by give•aways on property taxes, but just by creating a situation out here where people can afford to live, and that would include energy tax on home, and it would also include gasoline taxes. And I think we have a duty to the people of Suffolk County to look at recurring revenue streams, such as this, which would give us the flexibility, possibly even as early as late this year, of eliminating other types of regressive and very imposing taxes.

P.O. LINDSAY:

Legislator Kennedy.

LEG. KENNEDY:

Thank you, Mr. Chair. I just want to go ahead and respond, I guess, to your comments and indicate that there is a price, certainly, for anything that I advocate for on the behalf of the constituents in my district, and I make no apology. I have inquired and made an attempt to go ahead and look at an alternative to address the budget projections and the budget holes that we

look at by raising the concept of selling our tax liens on anything other than residential properties. Some have said that that, in fact, would be a one •shot, but, in fact, it is not in that it would allow us to go ahead and advance a revenue stream for, in many cases, properties that now go eight and ten years before we wind up realizing what the penalties and delinquencies are on them. It also might give us some latitude and flexibility that we do not have right now when it comes to disposal of County properties.

I feel that this is something that goes far afield from what the concept of recording is and the opportunity that everybody is mandated to have to have in order to go ahead and use property as a fungible commodity. And I disagree with the Chief Deputy in that many of the assignments and other things that he speaks of will ultimately wind up being borne by the borrower, as is most often the case. Lenders do not go ahead and give items away. And those assignments wind up costing not only what the cost of processing is, but the recording fees as well. Splitters, modifications, other types of tools are things that are made available to borrowers, so, in fact, actually the mortgage tax whack can be minimized, but, in fact, now what we'll be doing is moving the industry into a cost increase position, so that borrowers are going to wind up having to go ahead and pay this.

And I disagree with the fact that this is an item that may be a once or twice in a lifetime type of issue. Having been in the Clerk's Office for nine years, I can tell you with a degree of knowledge, many, many, many people refinance property once, twice, and sometimes three times in a year's period of time as interest rates change and use it for all those things that they need to do in life, like debt consolidation, like education, like big ticket purchases. So, again, I perceive this as being something that's going to be a burden borne on all property owners.

P.O. LINDSAY:

Anyone else? Anyone else? All right. I'll make a motion to approve.

LEG. COOPER:

Second.

P.O. LINDSAY:

Second by Legislator Cooper. Roll call.

(Roll Called by Mr. Laube, Clerk)

P.O. LINDSAY:

Yes.

LEG. COOPER:

Yes.

LEG. ROMAINE:

No.

LEG. SCHNEIDERMAN:

Yes.

LEG. BROWNING:

(Not Present)

LEG. CARACAPPA:

Yes.

LEG. LOSQUADRO:

Yes.

LEG. EDDINGTON:

Yes.

LEG. MONTANO:

Yes.

LEG. ALDEN:

Pass.

LEG. BARRAGA:

Yes.

LEG. KENNEDY:

No.

LEG. NOWICK:

Yes.

LEG. HORSLEY:

Yes.

LEG. MYSTAL:

Yes.

LEG. STERN:

Yes.

LEG. D'AMARO:

Yes.

LEG. VILORIA • FISHER:

Yes.

LEG. ALDEN:

Yes.

MS. ORTIZ:

15. (Not Present: Leg. Browning)

P.O. LINDSAY:

Okay. The resolution passes. The Clerk, if you would prepare the documents, we have a Sheriff in the back to take this up to Albany. It's supposed to be voted on this afternoon. That is the sole purpose of this meeting today. I'll entertain a motion to adjourn.

D.P.O. VILORIA • FISHER:

So moved.

LEG. LOSQUADRO:

Mr. Chairman.

LEG. ALDEN:

On the motion.

LEG. NOWICK:

To adjourn?

LEG. MYSTAL:

To adjourn.

LEG. ALDEN:

Is there a motion to ••

D.P.O. VILORIA • FISHER:

I just made a motion to adjourn.

LEG. ALDEN:

On the motion.

P.O. LINDSAY:

I'll second your motion to adjourn, yes. And I recognize Legislator Alden.

LEG. ALDEN:

Normally, we have the ability to conduct other kinds of business. And as long as we've got a courier going up to New York, maybe we should send a little •
• a message up there by passing a resolution that would reduce the tax burden on people for gasoline. And I'd be more than happy to make a motion to discharge the pending legislation. It was filed on time.

P.O. LINDSAY:

You can't do it. The purpose of this meeting was to address this one item. It was called by the County Executive.

LEG. ALDEN:

In nine years, and that's about what I've been here roughly, I've never heard of that.

P.O. LINDSAY:

Well, if you ••

LEG. ALDEN:

We've always had the ability to •• whatever other matters would come before the Legislature, because you can end up with somebody walking in off the street at a special meeting and say, "We want you to address a very important matter," and we've always had that ability in the past.

P.O. LINDSAY:

If you want to challenge the Chair's ruling, we'll talk •• you know, ask Counsel to comment.

LEG. ALDEN:

Well, I don't think you made a ruling yet, but ••

P.O. LINDSAY:

I did make a ruling.

LEG. ALDEN:

Oh, you did?

P.O. LINDSAY:

Yeah. The one purpose of this meeting was the purpose described in the meeting notice of the Special Meeting called by the Executive.

LEG. ALDEN:

Okay. Permission to address the Counsel.

P.O. LINDSAY:

Go right ahead.

LEG. ALDEN:

Is that waivable?

MR. NOLAN:

The Administrative Code says, this is a 2•6, says that only business, including the enactment of laws or resolutions specified in the notice thereof may be transacted at a Special Meeting. Only the stuff that's in the notice.

LEG. ALDEN:

Well, then the question would be why •• why were we limited to that narrow of a •• as far as amount of material that we can cover, when in the past

we've never been.

P.O. LINDSAY:

You would have to ask the Executive, he called the meeting.

LEG. ALDEN:

Is that waivable, George?

MR. NOLAN:

No. It's in the Administrative Code.

LEG. MYSTAL:

Ask Paul.

P.O. LINDSAY:

Okay. I have a motion to ••

LEG. ALDEN:

No. It just •• it sounds like a nice little trick not to address a very important

problem that we have in Suffolk County and that's a gas tax, which has a very, very short window for us to address New York State. And, actually, they're up there waiting for this piece of legislation.

P.O. LINDSAY:

They're still trying to fix their legislation. But I don't want to debate this. We have a motion to adjourn and second. All in favor? Opposed? Abstentions?

LEG. ALDEN:

I abstain •• no, I'm opposed. I'm opposed.

P.O. LINDSAY:

You'll have to wait until next week.

LEG. ALDEN:

I'm opposed to ••

MS. ORTIZ:

To closing?

LEG. ALDEN:

•• adjourning this meeting without dealing with the sales tax issue. It's a travesty and looks like it was preconceived by the County Executive to do just that, to do exactly that, exactly that.

MS. ORTIZ:

16.

[THE MEETING WAS ADJOURNED AT 10:12 A.M.]